

NOTE FOR FILE:

This memo has been overtaken by later
events. Mr. Bannerman's approval is negated.

*ALL OTHER COPIES OF MEMO
DESTROYED —*

Miriam

4.27

4/21

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Miriam:

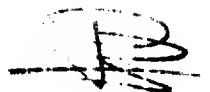
Per WFV, this memo has been overtaken by events in light of Col. White's position reflected in AMW's Diary Notes for 12 April. A letter to Oganovic of the CSC has been forwarded to Col. White for his signature but hasn't come back yet. Anyway, WFV said this memo should not go back and should be kept here with our background material. Perhaps you should

x out RLB's signature and let Helen know what happened.
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Or I will be glad to.

betty


Minam

Is this being revised in
light of Col. White's comments
or do I sign this.

A handwritten signature, possibly reading "J. B.", written in dark ink.

21 Apr. 67

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TRANSMITTAL SLIP		5 April 1967
TO: Mr. Bannerman via Mr. Warfield		
ROOM NO.	BUILDING	
REMARKS:		
<p>1. Recommend approval.</p> <p>2. Revisions to our PHS are in line with the new wording in SF-57 except for the age factor. Our reasoning on a lower age limit seems to be logical and justified.</p> <p></p>		
FROM: RBW		
ROOM NO.	BUILDING	

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4 APR 1967

DD/S 67-1768

Research 124

MEMORANDUM FOR: Deputy Director for Support

SUBJECT : Revision of "Arrest" Questions on Standard Form 57
and CIA's Personal History Statement

REFERENCES : a. FPM Letter 731-2 dtd 15 Aug 66, Subject: Policies
and Procedures Relating to the Federal Employment
of Personnel with Criminal Records

b. Memo for DD/S fr D/Pers dtd 5 Oct 66, same subject
as Reference a.

1. This memorandum submits a recommendation for your approval; this recommendation is contained in paragraph 6.

2. As reported in reference b, the Civil Service Commission has revised Standard Form 57, Application for Federal Employment, in accordance with a Presidential Directive concerned with the employment of "good risk offenders." (Reference a, which quotes from that Directive is attached at Tab A for your information.) Subsequent to my discussions with you and the Director of Security based on my memorandum of 30 August 1966 and your memorandum of 18 October 1966, the Director of Security has proposed revision of the pertinent questions in our Personal History Statement (Form 444) to accommodate the President's desires in this matter.

3. There is attached at Tab B a suggested revision of the related questions in our Personal History Statement Form and the revised questions used in Standard Form 57. The significant differences are:

a. Although the revised Form 57 places a limit of age 21 on juvenile arrests, our proposed revision of Form 444 places the age limit at 18. Our reasons for the higher age limit, as reported to me by the Director of Security, are that our experience shows that a significantly increasing number of serious offenses are committed by applicants in the 18 to 21 age bracket in recent years. Convictions based on the use of narcotics, LSD, and auto theft are examples. The Director of Security believes that we have seen a rising rate in incidence of such offenses in the 18 to 21 age bracket in recent years and that such offenses are meaningful in the security evaluation of applicants. (Low)

b. The Director of Security believes, and I share his opinion, that by getting information concerning such events through the Personal History Statement, we can review and if necessary reject many applicants who would otherwise be put in process only to be rejected after the completion of a full-field investigation and/or polygraph interview.

SUBJECT: Revision of "Arrest" Questions on Standard Form 57 and
CIA's Personal History Statement

Our suggested revision of the pertinent question, which keeps the age limit at 18, should benefit both the Agency and the individual since on the one hand, we would not initiate investigation in a case which would result in security disapproval and, on the other hand, would not produce a formal record in our security files of such offenses which might necessarily be revealed to other Government agencies considering the applicant for tentative employment.

4. We have for several years maintained a special procedure for reviewing sensitive ("white envelope") information revealed by an applicant in connection with the questions contained in Section XXIV. Instructions provided call for submission of responses in a sealed envelope to be opened only by responsible Agency officials. At present, PHS forms with such attachments are referred initially to the Chief, Special Activities Staff of the Office of Personnel for review; if in his opinion, the information reported is not significantly derogatory to warrant out-of-hand rejection of the application, the PHS, with the confidential information sealed in a new envelope is referred to our Placement Division. (Negative decisions are made by the Director of Personnel.) The instructions on this envelope authorize review only by a responsible official who is seriously considering the applicant. If such an applicant is subsequently tentatively selected for Agency employment, the sealed envelope accompanies his Personal History Statement to the Office of Security for its use and permanent retention. If security investigation is not initiated, the sealed envelope is retained in our applicant file for the individual. (Samples of the two envelopes in use are attached at Tab C.)

5. In our revised wording of the "arrest" questions in the Personal History Statement, we have left to the discretion of the individual whether or not he submits confidential information concerning possibly derogatory information other than the information requested in connection with civilian/military arrests. We believe that this discretion preserves

SUBJECT: Revision of "Arrest" Questions on Standard Form 57 and
CIA's Personal History Statement

the right of the applicant to acknowledge and explain the existence of any possibly derogatory information or to await the results of our investigation and polygraph interview to develop such information.

6. It is recommended that you approve the proposed rewording of the questions in Section XXIV of the Personal History Statement as shown in Tab B.

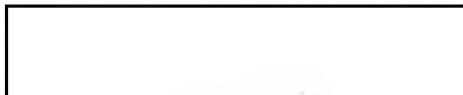


Emmett D. Echols
Director of Personnel

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Atts.

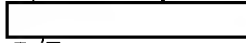
The recommendation contained in paragraph 6 is approved.



R. L. Bannerman
Deputy Director
For Support

11 April 67
Date

Distribution:

- 1 - Return to D/Pers
- 2 - DD/S
- 1 - D/Security
- 1 -  OP
- 1 - D/Pers

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IN FPM Ch. 731
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FPM LTR. 731-2

UNITED STATES CIVIL SERVICE COMMISSION

FEDERAL PERSONNEL MANUAL SYSTEM

LETTER

Washington, D.C. 20415
August 15, 1966

FPM LETTER NO. 731-2

SUBJECT: Policies and Procedures Relating to the Federal
Employment of Persons With Criminal Records

Heads of Departments and Independent Establishments:

The purpose of this letter is to place into effect the directive contained in the President's message to Congress of March 9, 1966, on national strategy against crime. In that message he called for a national, unified campaign to reverse the rising tide of crime in America. He pointed out that "the best correctional programs will fail—if legitimate avenues of employment are forever closed to reformed offenders." His message further stated:

I am also directing the Chairman of the Civil Service Commission to reexamine the policies of all Federal departments and agencies regarding the hiring of released "good risk" offenders. I am asking him to prepare progressive and effective policies to deal fairly and sensibly with them. I urge the States, local governments, and private industry to do the same.

It is essential that the Commission and the appointing officers in the Federal service take the lead in supporting the President's objective to provide legitimate employment to "good risk" offenders. This objective is shared by many public and private organizations and has been of concern to a number of members of the House of Representatives and the Senate.

The following policies, effective immediately, have been developed in response to the President's directive:

- o The Commission and the employing agency will accept applications from persons who have records of criminal convictions and will consider for employment those adjudged to be good risks.

INQUIRIES: Bureau of Personnel Investigations 183-7205

CSC CODE: 731, Suitability

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- o For all positions in the Federal service each case must be judged on its own individual merits. This means that the Commission and appointing officials will take into account such matters as the nature and seriousness of the offense, the circumstances under which it occurred, how long ago it occurred, whether or not it was an isolated or repeated incident, the age of the person at the time it was committed, social conditions which may have helped contribute to the offense, any evidence of rehabilitation, and the kind of position for which he is applying. Each applicant must be treated as an individual in considering all the relevant issues that apply in his particular case in arriving at an employment decision.
- o In administering the merit system the objective is that persons with records of criminal convictions who are attempting to obtain employment in the Federal service receive, on an individual basis, mature and sophisticated decisions taking into consideration the social and humane need for their rehabilitation as well as the requirements of the positions for which they apply.
- o The Commission formerly had a practice that for most law enforcement positions, positions which involve appearances in court, and fiduciary responsibilities, applications received from persons convicted of felonies were not accepted unless two years had elapsed since release from prison at the expiration of term, or release from parole or probation. Hereafter, no waiting period will be required. All cases will be decided on their own merits, taking into account the nature of the position for which application is made.
- o A few statutes relating to treason, bribery of Government officials, and other matters specifically provide that persons convicted may not hold or may be disqualified from holding a Federal office. This letter does not relate to persons convicted of these offenses if such a disqualification exists.

In placing these policies in effect the procedures given below will be followed by the Commission and the employing agency:

- o Under present practices the appointing officer must obtain prior approval of the appropriate certifying office of the Commission before appointing in a competitive position any one who is on parole or probation. This practice is hereby changed. Hereafter, the appointing officer need not obtain such prior Commission approval provided the appointing officer has full knowledge of

all the circumstances involved in the individual case. If he is not convinced that he has such knowledge, he may refer the case to the appropriate certifying office of the Commission for further consideration.

- o The Commission is modifying the arrest questions on Standard Form 57, Application for Federal Employment, and other application forms to obtain information concerning convictions rather than arrests. These questions now read:

- 37. Have you ever been arrested, taken into custody, held for investigation or questioning, or charged by any law enforcement authority? (You may omit: (1) Traffic violations for which you paid a fine of \$30.00 or less; and (2) anything that happened before your 16th birthday. All other incidents must be included, even though they were dismissed or you merely forfeited collateral.)
- 38. While in the military service were you ever arrested for an offense which resulted in a trial by deck court or by summary, special, or general court-martial?

Hereafter, Questions 37 and 38 will read:

- 37. Have you ever been convicted of an offense against the law or forfeited collateral, or are you now under charges for any offense against the law? (You may omit: (1) Traffic violations for which you paid a fine of \$30.00 or less; and (2) any offense committed before your 21st birthday which was finally adjudicated in a juvenile court or under a youth offender law.)
- 38. While in the military service were you ever convicted by general court-martial?

The deletion of inquiry about arrests which have not resulted in convictions is designed to prevent the summary rejection of applicants on the basis of unevaluated arrest records. The deletion of this inquiry does not, however, preclude the Commission and the agency concerned, as part of the full consideration of an individual's case, from developing the circumstances relative to arrests and taking them into consideration in determining suitability for Federal employment. This is a reasonable and necessary part of a suitability determination as the circumstances surrounding some arrests have a genuine bearing on the individual's fitness regardless of the absence of a criminal

731- 2 (4)

conviction. For example, some arrested persons are not brought to trial because of the disappearance of witnesses or an unwillingness on the part of those concerned to prosecute. What has been done by the deletion of the arrest inquiry is to allow the unconvicted individual the very real and worthwhile opportunity to have his application considered on an equal basis with all others, while preserving for the Government the right to reject any truly unsuitable person when an evaluation of the facts surrounding an arrest justify that action. This is a fair balancing of the equities of all concerned.

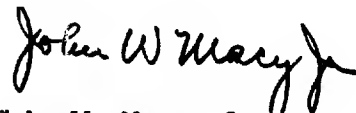
Revision of Standard Form 57 and other application forms will take some time. The Commission and appointing officials immediately will be guided by the above requirements in their consideration of applications for employment.

- o The term "good risk" offenders probably can never be completely and inflexibly defined since it involves judgmental factors. However, certain guidelines may be suggested. Certainly any former offender who has successfully demonstrated his rehabilitation under the work release program authorized by the Prisoner Rehabilitation Act of 1965 (Public Law 89-176, 89th Congress), or has demonstrated his rehabilitation by good conduct while living in the community, would be considered a "good risk" offender. (The Commission has issued separate instructions under which the Federal Government as an employer will participate in this program. See FPM Letter Number 213-8 of April 12, 1966).
- o A person whose conviction has been set aside under the Federal Youth Corrections Act (which may be applied to persons under age 26 when convicted) or similar State authority need not list the conviction in response to Question 37 and would be considered a good risk for Federal employment, taking into account the duties and responsibilities of the job involved.
- o In cases of persons who have served terms for felony convictions in the past three years, request will be made of the warden of the appropriate penal or correctional institution for a complete report on the individual's background, his conduct during his prison term, and any special training he may have received during his prison term, together with a definite recommendation on whether he should be considered for Government employment

in the position he seeks. If the applicant is or has been on probation or parole, similar information should be requested from the appropriate probation or parole officer. In determining suitability, these reports and recommendations as well as all other information contained in the file should be given careful attention in determining whether or not the offender is a "good risk" insofar as Federal employment is concerned. (As used here, a felony is defined as any crime for which the court has imposed a prison term exceeding one year and there has been some period of actual confinement under the sentence. The fact that a person is released on parole before the expiration of the term of a sentence will not affect the determination that the offense is a felony, provided the confinement and parole together exceed one year.)

The instructions contained in this letter supersede instructions on the subject-matter now appearing in Federal Personnel Manual and other Commission issuances. The Federal Personnel Manual and other Commission issuances will be revised to bring them into accord with this letter as soon as possible. Meanwhile, it is essential that all appointing officials in your department or independent establishment be promptly advised of the contents of this letter and instructed to act in conformity with it in making decisions on persons with criminal records who are seeking employment in the Federal service.

By direction of the Commission:



John W. Macy, Jr.
Chairman

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REVISED WORDING OF STANDARD FORM 57,
APPLICATION FOR FEDERAL EMPLOYMENT

Item 37:

Have you ever been convicted of an offense against the law or forfeited collateral, or are you now under charges for any offense against the law? (You may omit (1) Traffic violations for which you paid a fine of \$30.00 or less; and (2) any offense committed before your 21st birthday which was finally adjudicated in a juvenile court or under a youth offender law.) (Underscoring provided.)

Item 38:

While in the military service were you ever convicted by general court-martial?

If your answer to 37 or 38 is "Yes", give details in Item 39. Show for each offense: (1) Date, (2) Charge, (3) Place, (4) Court, and (5) action taken.

REVISED WORDING OF FORM 444,
PERSONAL HISTORY STATEMENT

Item XXIV (Personal Declarations)

NOTE SPECIAL If your answer is "yes" to the following INSTRUCTIONS questions 10, 11, or 12, provide the information requested for each question on a separate, signed sheet and attach the sheet to this form in a sealed envelope.

10. Have you ever been convicted in the U.S. or abroad of an offense against the law or forfeited collateral, or are you now under charges for any offense against the law? (You may omit (1) Traffic violations for which you paid a fine of \$30.00 or less, and (2) Any offense committed before your 18th birthday which was finally adjudicated in a juvenile court or under a youth offender law.) If so, state name of court, city, state, country, date, nature of offense, and disposition of case in accordance with special instructions above.
11. While in the military service, were you ever convicted by general court-martial? If so, describe incident(s) and provide date(s) of occurrence on a separate sheet in accordance with instructions above.
12. Are there any unfavorable incidents in your life (not mentioned above) which may be discovered in subsequent investigation, whether you were directly involved or not, which you desire to explain. (Underscoring provided.) If so, describe incident(s) and provide date(s) of occurrence(s) on separate sheet in accordance with special instructions above.

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CONFIDENTIAL DISCLOSURE

This envelope contains confidential information provided voluntarily by the applicant. It is to be opened only by authorized members of the Office of the Director of Personnel.

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CONFIDENTIAL DISCLOSURE

This envelope contains confidential information given voluntarily by the applicant. The information has been reviewed and a determination made that the disclosure has no significant adverse effect on general employment suitability.

This information should be reviewed only by responsible operating officials who are considering the application and treated as privileged information.

If the applicant is accepted and a Request for Security Clearance initiated, this envelope together with the Personal History Statement will be forwarded to the Office of Security.

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